

Sub-Chapter 60

Electric and Natural Gas Utility Restructuring
Consumer Information and Protection

38.5.6001 DEFINITIONS (1) "Small customer" means a residential customer or a small electricity or natural gas commercial customer of a distribution utility.

(2) "Residential customer" means a residential customer of a distribution utility.

(3) "Small electricity commercial customer" means a commercial electricity customer whose individual account averaged a monthly demand in the previous calendar year of less than 300 kilowatts (kW) or a new commercial customer whose individual account is estimated to average a monthly demand of less than 300 kW.

(4) "Small natural gas commercial customer" means a commercial natural gas customer with usage per year on an individual account which averages under 500 dekatherm units (dkts) or 500 mcf (each mcf unit is one-thousand cubic feet) or a new commercial customer whose individual account is estimated to average a monthly usage under 500 dkts or mcf per year. (History: 69-3-1404 and 69-8-403, MCA; IMP, 69-3-1404 and 69-8-403, MCA; NEW, 1999 MAR p. 1233, Eff. 6/4/99.)

38.5.6002 VERIFICATION OF SMALL CUSTOMER CHOICE OF SUPPLIER (1) A supplier may not initiate or effect a change in a small customer's choice of supplier except when the supplier initiating the change has obtained the customer's written authorization in a form that meets the requirements in this rule. The supplier must retain this authorization for at least 12 months from the date of initiation of service.

(2) The letter of authorization shall be a separate document (or an easily separable document) that is delivered to the prospective customer along with the service contract. The letter of authorization shall contain the authorizing language described in (4) of this rule, the sole purpose of which is to authorize a natural gas or electricity supplier to initiate a change in the customer's choice of supplier. The letter of authorization must be signed and dated by the customer who is responsible for payment of the natural gas or electricity account.

(3) The letter of authorization shall not be a part of any sweepstakes, contest or similar promotional program.

(4) At a minimum, the letter of authorization must be printed with a readable type of sufficient size to be clearly legible and must contain clear and unambiguous language that confirms:

- (a) The customer's billing name and address and each account number to be covered by the change order;
- (b) The decision to change the customer's choice of supplier from the current supplier to the prospective supplier;
- (c) The customer's designation to the supplier to act as the customer's agent for the supplier change;
- (d) The customer's understanding that by authorizing a change in supplier he or she authorizes access by that supplier to his or her usage and account information; and
- (e) The customer's acknowledgment of receipt of the supplier's service contract and agreement to its terms and conditions. (History: 69-3-1404 and 69-8-403, MCA; IMP, 69-3-1404 and 69-8-410, MCA; NEW, 1999 MAR p. 1233, Eff. 6/4/99.)

38.5.6003 COMPLAINTS OF UNAUTHORIZED SUPPLIER SWITCHES

(1) Upon receipt of a complaint alleging an unauthorized switch in a customer's supplier, or from the commission or its staff on behalf of a customer, the supplier that initiated the change shall produce the letter of authorization required by ARM 38.5.6002. If the supplier fails to provide the letter of authorization or if it provides documentation that does not conform to the requirements of ARM 38.5.6002, the supplier change will be deemed invalid.

(2) A supplier which initiates a supplier change without authorization from the customer in accordance with these rules shall issue to the customer full credit or refund the entire amount of such customer's supply charges attributable to the supplier's service for the period during which the unauthorized service was provided. In addition, any charges incurred by the customer to re-establish supply service or to change the customer's supplier after the unauthorized switch shall be refunded or credited to the customer by the unauthorized supplier. The appropriate credit or refund must be issued within a period not to exceed 60 days from the date of the initial complaint from the customer, commission, or staff. (History: 69-3-1404 and 69-8-403, MCA; IMP, 69-3-1404 and 69-8-410, MCA; NEW, 1999 MAR p. 1233, Eff. 6/4/99.)

38.5.6004 SMALL CUSTOMER SERVICE CONTRACT (1) All rates, terms and conditions for supply service must be provided to a small customer in a service contract, written in plain language.

The service contract must include the letter of authorization required by ARM 38.5.6002 and the letter of authorization must be returned by the customer to the supplier before any supply service is provided. The front page of a service contract shall prominently and clearly disclose in a uniform information label prescribed by the commission and as available on the commission's internet website:

- (a) the length of time the contract will be in effect;

(b) the effective price for supply service, in cents per kilowatt-hour for electricity or, for gas, price per either dekatherm or mcf, whichever billing unit is used by the distribution services provider, for various levels of consumption typical for the customer's customer segment;

(c) whether the price is fixed or variable and, if variable, a general description of the potential range and possible causes of price variations and the pricing formula or index, as applicable; and

(d) the toll-free telephone number for customer inquiries and the hours during which the customer can contact the supplier at that number.

(2) The service contract must include the information required to appear on the information label and:

(a) an explanation of conditions under which the supplier will terminate the supply agreement;

(b) a prominent identification and explanation of any and all charges, fees and penalties; and

(c) a conspicuous disclosure that there is a 3-day grace period during which the customer may rescind the contract without penalty and explicit information how to do so.

(3) No supplier, regulated distribution utility, transmission service provider, energy service provider, metering service provider, billing service provider, or other company or individual involved in the sale or delivery of electricity or natural gas, may disclose individual customer information to others without prior written consent from the customer except as provided by commission rule or order.

(4) Small customers shall have a 3-day grace period from the time of entering into a service contract to notify the supplier of termination of the contract without incurring liability for supply services not consumed or taken under the contract. A supplier may not inform the distribution utility of the customer's decision to change suppliers until after the 3-day grace period elapses.

(5) Small customers may terminate a service contract without incurring liability for supply services not consumed or taken under the contract by notifying the supplier that the customer is relocating outside the geographic area served by the supplier, or is moving to a location where the customer is not responsible for payment of the service consumed.

(6) A supplier must notify its affected customers, the commission and the distribution companies in writing at least 60 days prior to ceasing business under an existing license or terminating service to an entire customer segment.

(7) The contract must clearly explain that distribution and transmission charges remain regulated, are not provided by the supplier, and shall identify which entity, the distribution utility or the supplier, will bill the customer for distribution and transmission charges.

(8) Each supplier must provide its service contract to a customer upon request.

(9) At least 60 days prior to the expiration date of the customer's service contract, the supplier must provide written notice to the customer of either:

(a) the existence and operation of an automatic renewal provision present in the customer's contract; or

(b) the need for the customer to affirmatively renew to retain service from the supplier at the end of the contract term.

(10) If the service contract contains an automatic renewal provision, the supplier may not change the terms and conditions of the contract upon the renewal date unless the customer has been provided with written notice of the changes at least 60 days in advance of their effective date and of his or her right to change suppliers rather than renew the contract. With the written notice of contract changes, the supplier must provide the customer a letter of authorization approving the contract changes to return to the supplier. Without a signed letter of authorization, the supplier may not renew the contract. (History: 69-3-1404 and 69-8-403, MCA; IMP, 69-3-1404 and 69-8-403, MCA; NEW, 1999 MAR p. 1233, Eff. 6/4/99.)

38.5.6005 SUPPLIER TERMINATION OF SMALL CUSTOMER CONTRACT DUE TO CUSTOMER'S NONPAYMENT (1) A supplier terminating a small customer's service contract because of nonpayment shall provide written notice to the customer and the customer's distribution services provider at least 14 days in advance of termination. The notice of contract termination to the customer must clearly state:

(a) the reasons for termination;

(b) the name, address and telephone number of the supplier representative or department who can address questions concerning the contract termination; and

(c) the date on which the supplier will terminate the service contract.

(2) A supplier's notice to a customer that the supplier is terminating the contract shall inform the customer that a default provider will continue providing the customer's electric or natural gas supply in the event of contract termination.

(3) The notice of contract termination to the customer must be mailed or provided separately from the bill.

(4) The supplier must notify the distribution utility at least one day in advance of the scheduled contract termination date if the customer and the supplier make arrangements which void or otherwise alter the scheduled termination. (History: 69-3-1404 and 69-8-409, MCA; IMP, 69-3-1404 and 69-8-409, MCA; NEW, 1999 MAR p. 1233, Eff. 6/4/99.)

38.5.6006 BILLS TO SMALL CUSTOMERS (1) If charges for unregulated supply and energy services are combined with regulated charges on a single bill, the unregulated charges must be identified as unregulated and presented as separate line items.

(2) Bills must prominently identify the name of each company for which charges are billed in close proximity to each company's charges. Bills for small customers must provide each company's toll-free telephone number for billing inquiries.

(3) The commission's address and toll-free telephone number for customer complaints must appear on all bills for small customers.

(4) The payment due date must appear on all bills.

(5) Electric and natural gas distribution utilities may enter into agreements with electricity or natural gas suppliers for billings and collections. The two companies must establish an efficient method of resolving customer inquiries and disputes.

The billing entity must be able to provide the customer with the name, address and telephone number of an employee or department responsible for customer dispute resolution.

(6) Bills for electricity services must clearly itemize each service component and its respective charge, including:

(a) electricity supply;

(b) transmission and distribution;

(i) if charges for transmission and ancillary services are paid by a supplier and passed on to a retail customer in electricity supply charges, the supplier must identify the transmission portion of the charges;

(c) transition charges; and

(d) universal system benefits.

(7) Bills for natural gas services must clearly itemize each service component and the charge associated with each service component, including:

(a) natural gas supply;

(b) transportation and distribution;

(i) if charges for transportation and ancillary services are paid by a supplier and passed on to a retail customer in natural gas supply charges, the supplier must identify the transportation portion of the charges;

(c) transition charges; and

(d) universal system benefits.

(8) Bills must separately subtotal charges for regulated and unregulated services. Bills combining charges for both electric and natural gas services must separate the electricity-related portion of the bill from the natural gas-related portion and separately subtotal the regulated and unregulated charges for each.

(9) Bills must provide the actual cents per kilowatt hour or mcf/dkt charged to the customer for the customer's usage of

electricity or natural gas supply for the current billing period, calculated by dividing the total charge for supply service by the customer's usage for the current billing period.

(10) Undesignated partial payments of a bill must be applied first to regulated service, then to service other than regulated service in the percentage of each service provider's charges to the total charges to the customer for services other than regulated service. Regulated service may not be affected by billing disputes over unregulated service or service provided by other companies.

(11) A for-profit affiliate of a cooperative utility that uses a regulated distribution utility's facilities to supply electricity or natural gas to customers outside the cooperative utility's distribution service territory must satisfy the billing provisions of this rule. (History: 69-3-1404 and 69-8-409, MCA; IMP, 69-3-1404 and 69-8-409, MCA; NEW, 1999 MAR p. 1233, Eff. 6/4/99.)

38.5.6007 DEFAULT SUPPLIER (1) The regulated electric distribution utility shall serve as the default supplier in its distribution service territory when a small customer is without supply service because the customer has not selected a competitive supplier or due to contract termination by an electricity supplier, including termination for nonpayment. The regulated natural gas distribution utility shall serve as the default supplier in its distribution service territory when a small customer is without supply service because the customer has not selected a competitive supplier or due to contract termination by a natural gas supplier, including termination for nonpayment.

(2) A customer receiving default supply service must remain in that service until his account is cleared with the default supplier. Once a customer's past due account is cleared, the customer may select a competitive service option from an alternative supplier. A default supplier may disconnect service to a customer who has not paid for its distribution services or default electricity or natural gas supply services. The deposit and termination rules of the commission apply to a default supplier (see ARM 38.5.1101 through 38.5.1112 and ARM 38.5.1401 through 38.5.1418).

(3) After a competitive bid solicitation, a regulated electric or natural gas distribution utility may contract with a third-party supplier to acquire the necessary electric or natural gas supply to allow the distribution provider to meet its default supplier obligations. The regulated electric or natural gas distribution utility is responsible for ensuring compliance with the commission's deposit and termination rules. (History: 69-3-1404, 69-8-403 and 69-8-409, MCA; IMP, 69-3-1404 and 69-8-409, MCA; NEW, 1999 MAR p. 1233, Eff. 6/4/99.)

38.5.6008 SERVICE DISCONNECTION (1) A regulated electric distribution utility may not disconnect or deny electric distribution service to a customer due to the customer's failure to pay for unregulated service or service provided by another entity. A regulated natural gas distribution utility may not shut off or deny regulated natural gas distribution service to a customer due to the customer's failure to pay for unregulated service or service provided by another entity. When the same regulated utility is both a customer's natural gas distribution utility and electric distribution utility, it may not deny, disconnect or shut off natural gas service or electric service due to the customer's failure to pay for the other utility service.

(2) Regulated distribution utilities may offer agreements to landlord small customers to allow them to authorize the utility to switch a rental unit's electricity and/or natural gas service to the default supplier or to a specified competitive supplier in the event of a tenant customer's service termination.

(History: 69-3-1404 and 69-8-403, MCA; IMP, 69-3-1404 and 69-8-403, MCA; NEW, 1999 MAR p. 1233, Eff. 6/4/99.)

38.5.6009 SUPPLIER COMPLAINT PROCEDURE (1) Each licensed supplier shall have an internal customer complaint procedure which allows for complete, fair and timely decisions and responses regarding complaints by customers. Suppliers shall keep a record of customer complaints.

(2) The commission shall resolve disputes among suppliers and small customers regarding the provisions of this rule according to the following procedures:

(a) Each supplier must provide at least one employee, (whose duties need not be limited to this obligation) during business hours to respond to questions and resolve complaints from customers and to work with the commission and its staff on complaint resolution;

(b) When a supplier becomes aware of a complaint by a customer, the supplier must investigate the complaint, report the results of its investigation to the customer and attempt in good faith to resolve the complaint; and

(c) If the supplier cannot resolve the dispute with the customer, the supplier must orally inform the customer of his or her right to file an informal complaint with the commission and provide the commission's toll-free consumer complaints telephone number. (History: 69-3-1404 and 69-8-403, MCA; IMP, 69-3-1404 and 69-8-403, MCA; NEW, 1999 MAR p. 1233, Eff. 6/4/99.)

38.5.6010 CLAIMS MADE IN MARKETING ELECTRICITY OR NATURAL GAS (1) A supplier shall include in its license application and in its annual reports sufficient documentation to substantiate any claims made to customers in advertising, marketing, promoting, or representing that electricity or natural gas purchased from the supplier is environmentally beneficial, environmentally benign, preserves or enhances environmental quality, is produced primarily with renewable energy sources, or is produced with specific resources or technologies.

(2) The commission may, on its own motion or in response to a complaint from a customer or another supplier, initiate a proceeding to investigate any claims made by a supplier in advertising, marketing, promoting and representing its services to customers. On determining that a supplier's claims are misleading, deceptive, false or fraudulent, the commission may apply appropriate penalties, including license revocation, pursuant to 69-4-408 and 69-3-1405, MCA.

(3) Unregulated supply affiliates of former vertically integrated, regulated public utilities may not refer to, or imply any association with, the reliability, safety, quality, value, history, or economic benefits of service formerly provided by the vertically integrated, regulated utility business when advertising, marketing, promoting or representing unregulated electricity or natural gas supply and/or retail energy services to customers in the service area of the former vertically integrated, regulated public utility. (History: 69-3-1404 and 69-8-403, MCA; IMP, 69-3-1404 and 69-8-403, MCA; NEW, 1999 MAR p. 1233, Eff. 6/4/99.)

Sub-Chapters 61 through 69 reserved